App F IX 4

Previous References

1948-49
(ML)

File No 110-48
Serial Nos 21, 22

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos Two

P-10-E

Part B for Oct '48

SUBJECT

Grant of Sites to the Harijans free of cost and at an upset-price at Chickmagalur — insertion of certain Conditions reg re-Exemption of certain Sites granted

To

The D C, Chickmagalur Dt

No L 4350/D 27-10-48

States that there is no necessity for communicating the approval for the proposal

KBG

1063/mel

Subj grant of sites to the
Harijans free of cost and at upset
price in the other poor and deserving
cases

From

The A C Chickmagalur Lr
L No A3 PR 62/68-69 Dt 30-7-68,
requests orders on the above subject

1) Mysl Deb no 1261 on the subject is part of
President

2) The ! Mysl Chickmagalur
States that the Govt should be
empowered to grant the sites with
a stipulation as to the time limit
within which the grantees should
~~erect~~ erect dwelling houses thereon
after obtaining the permission of the
Council and also requisite provision
of law is to be made for the resumption
of sites so granted, in cases of non-
fulfilment of the stipulated conditions

3) The above power and
provision is necessary to make it binding on
grantees ~~binding~~, that the sites

Grant of sites to Harijans free of cost and at upset price in Chickmagalur

1063/mcl

granted to them either free of cost or at upset price, should not be transferred to others speculating in building sites, as such alienation would frustrate the object of Grant

4) The D.C requests orders ~~under Section (2) of~~ Section 38 (2) of the T N Act 1933

3) Submitted for orders

Appl b) In the Municipalities an undertaking 7/8 is taken from the grantee that the site is liable to be resumed when not built upon within the stipulated period or when it is alienated within a particular period when the site is granted free or at an upset price. Legal opinion may be obtained whether such a condition is enforceable

Proposed 7) There is no necessity to amend Sec 38 (2) of the T N Act 1933 as proposed

The grant in such cases may be made subject to the conditions specified by the Govt and agreements obtained from the grantees that they would abide by the conditions prescribed, a reservation of power to effect resumption of sites & buildings thereon if any, without any compensation

1063

1063
Law Mrs re what is being done re
the case of such grants of Lots
Blue for engagement rings
The Law Officers may be interested
if the explanation of the above
conditions herewith will be sufficient
or whether an amendment of see
3'8, of the Act is called for

1.6.4
11/8

Law Secy
W/C

[illegible]
12/8/48

[illegible]
12/8/48

SECRET [illegible] DEFA [illegible]
1206
12 AUG 1948
[illegible]
MY[illegible]

[illegible]

As [illegible] an absolute prohibition so absurd
would be [illegible] to S 10 of H.T.P Act, steps taken
for example as appointed above would be
in order the same [illegible] (Chairman or
(in) effect to [illegible] engineers in the
[illegible] Board No. amendment of
[illegible] Act appears to be necessary

[illegible]
13/8

SECRET LAW DEPT
1320
14 AUG 1948
COURT OF MYS

Law Secy) 13/8

a) Perhaps enclosure to a minute with a
[illegible] enclosure [illegible] would be useful

PK
17/8

1063/Cons

Restriction on grant of Land

10) An absolute restriction in perpetuity on any sort of alienation for any purpose by a donee of land not required and refused (1922 Lahore 674) (S 10 T P Act) But the fact that in the condition to the effect that the grantee should build the house in which he intends to reside & the authorities are unwilling to enforce the legality of the condition of such condition is enforceable and such refusal to enforce all such conditions should not be held to affect the validity of the grant (1922 Lahore 674) The grantee should be given Land by Government Trichinopoly Bangalore which

11) A suggestion may kindly be forwarded

17/8

17/8/1922

17/8

Asst-Secy to S of State

Accepted

17/8

1767/2 Grant of sites to the Houses and free of cost and at upset price in the other poor and deserving cases

—

13 A copy of the terms and conditions on which sites may be given to House Building companies and co-operative and Society institutions, is put up as required as A (Flag E)

1063/mf

Amp 8/9 Fr 3-9-48

14) Mod Leg: req for Law Department 4/9/48

15) 7/9 and 16) The terms & conditions on which sites are given to House Building Co-operative Cost Societies include conditions of resumption etc (for ex) on the conditions and conditions may be varied & substituted with reference to para 11 supra

SECRETARIAT LAW DEPARTMENT 2048 10 SEP 1948 GOVT OF MYSORE

17) 9/9 Mm 9/9 Law Secy)

18 The A G may be requested to furnish terms of model Agreement to be executed with complement to the Secretariat and to forward 14/9 14-9-48 Fr 14/9

Ans 12/9 By the Govt 8 O Fr 14/9

Govt Secy & Govt

No. 32/Le 8-29
Dy 21.9.48

1767

19) However good and genuine the object may be i.e. to prevent the sites being sold away by persons in need of dwelling houses themselves, I am afraid a restriction of the kind contemplated — destructive from full ownership may be void — It is opposed to the general law and see 10 of the Transfer of Property Act to put fetters on transfer of Property. The purpose in view if sought to be achieved all the same can only be done by amending the Transfer of Property Act. I would hesitate to recommend that course

(At any rate there can be no certainty about the penalty being en

20) Restraint on gift is commented upon by DF Mulla in his Transfer of Property Act and though there are one or two decisions supporting the view that a condition may be attached to a gift the learned author is very doubtful of the correctness of the decisions

21) The form of agreements between the C I T Bangalore & House Building Coopera-tive Societies cannot be treated as resting on the same footing. The purpose there is different viz to have houses built by the Society by others and not transferred to the Society for its own use

22) A condition of the kind in contempla-tion inserted in the title deed however, has the effect of largely preventing persons from buying the property and the purpose in contemplation is substantially achieved. I would suggest that the condition may be improved or inserted in the title deed without undertaking any amendment in the existing law

Sd/- [illegible]
Dy 21/9/48

23) (NB) As there is some authority for the proposition that partial restraint in the sense of being alienable in time, a period of five years may be fixed during which the transfer undertakes not to alienate

[illegible] 21/9

1767/Law

1063
MC

Grant of rule for Hearing

24) DL Advocate General was on for moved
passed A partial withdrawal for perusal
of for 4 weeks for letter to adopted
withdrawal of to pass 18 copies

MH
22/9

Fr 22/9

Law Secy)

25) UB/9 Fr 23/9

New Secy
MG

3437
23/9

25) ~~Information to be supplied~~ The
U-O Note of the H.S. pages 19 to 23
Supra, and the opinion of the Law Secretary
in pages 24 and 25 are for perusal with
reference to para 7

Any
24/9 For
24/9 HS

26) There is no necessity
to amend the provisions of Sec 38 of
the Supreme Court Rules 1933
as proposed by the President,
Mr. Chief Justice

10/63/1

Town Hall Hemel

Hempstead be informed in terms

of Heads 2 & 3 of Appendix to

the effect that a similar

undertaking to the site for

a period of five years may

be entered in the Title deed issued

to the Trustees of the Tabernacle

Trustees Methodist Church

Newsagents for

2)

2) I agree

Miss A. Sc 8

28) Yes

8

27/5

OK

5/10/68

for

28/9/68

8

8/10

29) Draft letter please

for

9/10/68

30) Draft letter to the Dacorum Chicken Growers

in put up for approval

31) Issue

for

16/10/68

Amp

11/10

OFFICE OF
THE MINISTER FOR
LOCAL SELF GOVERNMENT
No. F57s
2sg

1067/mel/6306/mel

Grant of letter to Harijans in chi. alm TW

To
The D C Chickmagalur
No L4350/R mel 110-48-22
dated 27-10-48
calls for explanation

To
The Pdr. TMC Chickmagalur
No L4350 dt 27-10-48

calls for explanation

From
The pdr, chickmagalur taluk
M.C. No DC 62/48 reg dt/16-2-49
forwards a copy of the
order in this behalf

3rd) Orders have already been issued in this office letter No L4350-57/mel 110-48-22 dated 27-10-48 in this behalf No action seems necessary on this letter If approved this will be recorded

yes, may be recorded

Amp 22/2/49

for 25/2/49

TERMS AND CONDITIONS ON WHICH SITES MAY BE GIVEN TO HOUSE-BUILDING COMPANIES AND CO-OPERATIVE & SIMILAR INSTITUTION

(As Approved by the Board at its Meeting on 4th Feby:'47)

1. (a) Sites may be given at such up at prices as may be decided by the Board for only house-building purposes and for residential purposes only. Full site value to be paid immediately.

(b) House-construction to be according to plans and designs and materials, etc., to be approved by the Trust B o a r d.

2. The Society, Bank or Company as the case may be shall sell the completed building at a price to be fixed at the cost price plus a sum not exceeding 12½ thereon (no auctioning by the Companies or Societies to be permitted).

The cost price shall be computed inclusive of supervision charges.

If the houses are to be given on hire-purchase system, the terms of the hire-purchase to be approved by the Board and the hire settled on an equitable basis of equated payment based on cost and interest not exceeding 6%, and the period of repayment being not less than 12-y e a r s.

3. The names of the persons to whom the Society, Bank or Company allots houses or sites to be given to the Trust Board for its approval and no house or site to be given except with its approval.

4. The construction of houses to be completed within two years at the most from the date of possession of the sites - in cases where the cost of construction

P. T. O.

construction is more than Rs.5,000/-, and in other cases within one year from the date of possession

5. PENALTIES:- If the construction is not begun within three months and the construction not completed within one year (except that in the case of buildings costing more than Rs.5,000/- where two years may be allowed for completion) the Board will resume the site and existing structures, forfeiting 4/5 of the site value and of the existing structures, such value to be fixed by the Chairman, Trust Board, whose decision shall be final

In the case of an incomplete structure being forfeited to the Board, it shall become the property of the Trust Board and the Chairman shall have power after resumption of the site and structure to sell it by auction or agreement or otherwise use it

6 The Company, Bank or Society will not get title to the property but will only get possession on those terms, and it is definitely understood that the terms 'site-value' and similar terms used herein only mean the consideration paid by the Company, Bank or Society for the right to possession of the site for the limited purpose of enabling them to put up structures which are to be sold in accordance with the other terms contained herein

7. Title will be transferred by the Board by Registered document only after completion of the building, and directly to the person to whom the building is allotted.

8. License to build the house is to be obtained from the Trust Board in respect of properties outside the Municipal limits.

9 Allotment is to be in particular to people who are permanent residents of Bangalore City and who own no houses or sites.

10. ~~The allottee will not be entitled to sell the house or site or any part thereof for a period of five years from the date of allotment without the permission of the Board.~~

Secretary to Govt.-
Revenue Dept.-

Def No 1268/49

No A3-P R 62/48-49
Enc Nil

Office of the Deputy Commissioner,
Chickmagalur District,
Chickmagalur, dated the 30th July 1948

To

Mul 110-48-21

The Secretary to Government,
Revenue Department,
Bangalore
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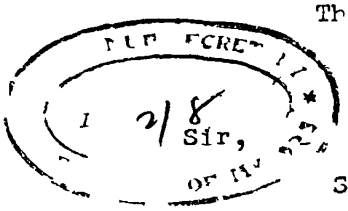

Sir,

Subject - Grant of sites to the Harijans free of cost and at upset price in the other poor and deserving cases
==========

5694 D 27/4

Adverting to your letter No L 16028 dated 24th April 1948 on the above subject, I have the honour to forward herewith letter No H C 202 of 47-48 dated 16th June 1948 with its enclosure, received from the President, Town Municipal Council, Chickamagalur and to state as follows -

The opinion of the town Municipal Council, Chickmagalur is that it should be birding on the grantees that the sites granted to them either free of cost or at upset price, should not be transferred to others speculating in building sites as such alienation would frustrate the object of grant It is therefore requested by the Council that the council should be empowered to grant the sites with a stipulation as to the time limit within which the grantees should erect dwelling houses thereon after obtaining the permission of the Council as per rules They further desire requisite provision of law for the resumption of sites so granted, in cases of non-fulfilment of the stipulated conditions

I request you in the foregoing circumstances, kindly to communicate early orders of Government in this behalf Necessary amendment Sub Section (2) of Section 68 of the Town Municipalities Act 1933 may kindly be caused to be issued

I have the honour to be
Sir,
Your most obedient servant,

H P Ramachandraiya
Deputy Commissioner,
Chickmagalur District

HPR

No L 4350/27-10-48

To MLL10-48-22

The D C Chickmagalur Distt

Subj Grant of Sites to the Harijans free of cost and at an upset price at Chickmagalur — Suggestion of Extension Committee

Sir,

In reference to the above subject —

With reference to your letter No A3 P R 62/48-49 of 30-7-48 on the above subject I am directed to state that there is no necessity to amend the provisions of Sec 38 of the Mysore Town Municipalities Act 1933 as proposed by the Municipal council Chickmagalur It will be sufficient if a condition of non-alienation of the site for a period of five years is inserted in the title-deed issued to the grantees of the sites. This will effectually deter persons from buying the property within the period prescribed and the purpose in contemplation will be substantially achieved Necessary Amendment may be issued accordingly The Records accompany

Yours faithfully

for Rev Secy to Govt

No L 4351/27-10-48

Copy to the Pdt Chickmagalur Town Municipal Council for information

for Rev Secy to Govt

OC 42

No 48/49
Rev. Adm

OFFICE OF THE PRESIDENT
TOWN MUNICIPAL COUNCIL
CHIKMAGALUR

Date 14th Feb 194 9

From

S ANNAPPA SETTY ESQ M R A
President Town Municipal Council

& PEIF
6306

To

The General Secretary,
to Government of Mysore,
Bangalore

Sir,

With reference to your letter No L 9281 dated 11-2-49 regarding grant of sites to Harijans free of cost and at an upset price to the other poor people at Chickmagalur, I write to state that the question has been once for all settled in letter No I 4350/ L 110-48-2 dated 27-10-1948 addressed to the Deputy Commissioner and copy forwarded to this office under No L 4351 dated 27-10-1948 A copy of the same is herewith sent for ready reference

Yours faithfully,

President. 16/2

Le ter no L 4350/ 110-48-2 dated 27-10-1948 from the Secret ry to Government of Mysore, Revenue Department to the Deputy Commissioner, Chickmagalur District

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Subject -

Grant of sites to the Harijans, free of cost and at an upset price at Chickmagalur - Incertion of certain conditions regarding resumption of sites granted

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With reference to your letter o A3 P R 62/48-49 dated 30th July 1948 on the above subject, I am directed to state that there is no necessity to amend the provision of Section 38 of the Mysore Town Municipal Act, 1933 as propose by the Municipal Council, Chickmagalur It will be sufficient if a condition of non-alienation of the site for a period of 5 years is inserted in the title deed issued to the -- grantees of the sites This will generally have the effect of deterring persons from buying the property within the period prescribed and the purpose in contemplation will be substantially achieved The President, Town Municipal Council may be informed accordingly

The records accompany

Yours faithfully,
Sd Syed Fadul Aleem,
Secret ry to Government,
Revenue Department

Memo No L 4351/dated 27-10-48

Copy of the above is forwarded with compliments to the President, Chickmagalur Town Municipal Council for information

By Order
Sd
For Secretary to Govt
Revenue Dept

C O P Y

President 16/2